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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,624	12/07/2000	Steven M. French	AUS920000801US1	1060

7590 05/14/2004

Frank C. Nicholas
CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, IL 60201

EXAMINER

NGUYEN, THANH T

ART UNIT

PAPER NUMBER

2144

DATE MAILED: 05/14/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/731,624

Applicant(s)

FRENCH ET AL.

Examiner

Tammy T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2000 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.3.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.



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Detailed Office Action

1. This action is in response to the application **09/731,624** filed. **December 7, 2000.**
2. Claims **1-23** have been examined.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-23 rejected under 35 U.S.C. 102(e) as being clearly anticipated by Beelitz et al. (USPN January 30, 2001 – Date of Patent: 6,182,275, herein referred to as “Beelitz”).
5. As to claim 1, Beelitz teaches the invention as claimed, including a method of dynamically creating a list of operating systems for a target device in communication with a server prior to executing an operating system on the target device, comprising: receiving from the server, at the target device, an available operating systems list of at least one operating system available to the target device (col.7, lines 35-40, lines 48-51, and col.16, lines 35-38); determining a hardware configuration of the target device (col. 18, lines 50-55); determining if the hardware configuration is compatible with each operating system from the available operating systems list (col.11, lines 50-55, and col.16, lines 4-10); and generating a compatible operating systems list (Abstract, col.4, lines 40-50, and col.18, lines 5-10).
6. As to claim 2, Beelitz teaches the invention as claimed, wherein the hardware configuration is determined by a network discovery process (col.2, lines 2, lines 10-18).
7. As to claim 3, Beelitz teaches the invention as claimed, further comprising: mapping a specific location of the target device (col.15, lines 55-65).
8. As to claim 4, Beelitz teaches the invention as claimed, further comprising: determining at least one location-based operating system that is based on the specific location of the target device (col.15, lines 55-65).

9. As to claim 5, Beelitz teaches the invention as claimed, further comprising:
determining if the hardware configuration is compatible with the location-based operating system (col.16, lines 1-9).
10. As to claim 6, Beelitz teaches the invention as claimed, wherein the compatible operating systems list does not include the location-based operating system, further comprising: adding the location-based operating system to the compatible operating systems list (col.16, lines 5-10).
11. As to claim 7, Beelitz teaches the invention as claimed, wherein the available operating systems list does not include the location-based operating system, further comprising: adding the location-based operating system to the available operating systems list (col.16, lines 1-10).
12. As to claim 8, Beelitz teaches the invention as claimed, further comprising: selecting, at the target device, a target operating system from the compatible operating system list (col.16, lines 8-18).
13. As to claim 9, Beelitz teaches the invention as claimed, further comprising: receiving at the target device, the target operating system (col.15, lines 55-65).
14. As to claim 10, Beelitz teaches the invention as claimed, further comprising:
providing an initial bootstrap to the target device; and executing the initial bootstrap on the target device before the target operating system is selected (col.7, lines 35-40, lines 48-51);

15. As to claim 11, Beelitz teaches the invention as claimed, further comprising:
relocating the initial bootstrap after the target operating system is received (col.18, lines 60-65);
16. As to claim 12, Beelitz teaches the invention as claimed, including computer program product in a computer usable medium for dynamically creating a list of operating systems for a target device in communication with a server, comprising: means for receiving at the target device an available operating systems list of at least one operating system available to the target device (col.7, lines 35-40, lines 48-51); means for determining a hardware configuration of the target device (col.18, lines 60-65); means for determining if the hardware configuration is compatible with each operating system from the available operating systems list (col.16, lines 4-10); and means for generating a compatible operating systems list (col.18, lines 5-10).
17. As to claim 13, Beelitz teaches the invention as claimed, further comprising: means for discovering the hardware configuration via a network discovery process (col.2, lines 2, lines 10-18).
18. As to claim 14, Beelitz teaches the invention as claimed, further comprising: means for determining at least one location-based operating system based on the location of the target device (col.15, lines 55-65).
19. As to claim 15, Beelitz teaches the invention as claimed, further comprising: means for adding the location-based operating system to the available operating systems list (col.16, lines 1-10).

20. As to claim 16, Beelitz teaches the invention as claimed, further comprising: means for determining if the hardware configuration is compatible with the location-based operating system (col.16, lines 1-9).
21. As to claim 17, Beelitz teaches the invention as claimed, further comprising: means for adding the location-based operating system to the compatible operating systems list if the hardware configuration is compatible with the location-based operating system (col.15, lines 55-65).
22. As to claim 18, Beelitz teaches the invention as claimed, further comprising: means for receiving a selection of a target operating system from the compatible operating system list (col.7, lines 35-40, lines 48-51); and means for sending the target operating system to the target device (col.15, lines 55-65).
23. As to claim 19, Beelitz teaches the invention as claimed, further comprising: means for executing a network bootstrap on the target device before the target operating system is selected (col.7, lines 35-40, lines 48-51);
24. As to claim 20, Beelitz teaches the invention as claimed, further comprising: means for relocating the network bootstrap after the target operating system is selected (col.18, lines 60-65);
25. As to claim 21, Beelitz teaches the invention as claimed, including a network data processing system comprising: means for sending an available operating systems list from a server to a target device prior to executing an operating system on the target device (col.7, lines 35-40, lines 48-51); means for determining a hardware configuration of the target device (col.18, lines 60-65); means for determining if the

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hardware configuration is compatible with each operating system from the available operating systems list (col.16, lines 4-10); and means for generating a compatible operating systems list (col.18, lines 5-10).

26. As to claim 22, Beelitz teaches the invention as claimed, further comprising: means for determining a specific location of the target device (col.15, lines 55-65); means for determining at least one location-based operating system that is based on the specific location (col.15, lines 55-65); and means for determining if the location-based operating system is compatible with the hardware configuration (col.16, lines 4-10).
27. As to claim 23, Beelitz teaches the invention as claimed, further comprising: means for executing a network bootstrap program on the target device before a target operating system is selected (col.7, lines 35-40, lines 48-51); means for selecting the target operating system from the compatible operating systems list (col.15, lines 55-65); means for relocating the network bootstrap program after the target operating system is selected (col.18, lines 60-65); and means for sending the target operating system to the target device (col.16, lines 1-10).

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiries concerning this communication or earlier communications from

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the examiner should be directed to **Tammy T. Nguyen** who may be reached via telephone at **(703) 305-7982**. The examiner can normally be reached Monday through Friday between 8:00 a.m. and 5:30 p.m. eastern standard time.

If you need to send the Examiner, a facsimile transmission regarding this instant application, please send it to **(703) 872-9306**. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Bill Cuchlinski, may be reached at **(703) 308-3873**.

TTN
May 1, 2004



WILLIAM A. CUCHLINSKI, JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600